Supreme Court, U.S.
FILED
NOV 5 1985
JOSEPH F. SPANIOL, JR.
CLERK

NO. 85-624

In the Supreme Court of the United States

OCTOBER TERM, 1985

IRVIN M. CARBALAN

Petitioner

versus

BILL VAUGHN, ET AL

Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

SUPPLEMENTAL APPENDIX TO THE PETITION FOR WRIT OF CERTIORARI

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APPENDIX E

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

IRVIN M. CARBALAN	*	
	*	
VS.	*	
	*	
BILL VAUGHN,	*	CIVIL ACTION
INDIVIDUALLY, AND AS	*	NO. W-82-CA64
MARSHALL OF THE CITY OF	*	
BUFFALO, TEXAS, BEN	*	
BAGLEY, INDIVIDUALLY,	*	
AND AS JUDGE OF THE	*	
CITY OF BUFFALO, TEXAS,	*	
AND THE CITY OF	*	
BUFFALO, TEXAS	*	

FILED FEB. 3, 1984

FINAL JUDGEMENT

Came on the 16th day of January, 1984, the above numbered and styled cause for trial and all parties having announced ready, a good and lawful jury was duly impaneled, selected and sworn, whereupon the case proceeded to trial before said jury, and the jury, after having heard the evidence, stipulations, and argument of counsel, on the 19th day of January, 1984 returned their verdict into open court, which verdict was duly received by the court and the jury discharged, said verdict being as follows:

"1. Do you find that excessive force was used against Plaintiff Irvin M. Carbalan by defendant Bill Vaughn on or

about March 31, 1980, so as to deprive him of his constitutional rights?

Answer Yes or No.
Answer: *"NO"*

If you have answered Question No. 1, "Yes", answer Questions numbered 2 and 3; otherwise go to Question No. 4.

2. Do you find that the city of Buffalo, Texas had a policy approving such deprivation of constitutional rights, if you have so found?

Answer Yes or No.
Answer: _____

3. Do you find that Plaintiff Carbalan's arrest by Defendant Vaughn was conducted in good faith?

Answer Yes or No.
Answer: _____

4. Do you find that Judge Ben Bagley denied Plaintiff Carbalan his right to reasonable bail by refusing to accept the tendered motor club cards?

Answer Yes or No.
Answer: *YES"*

If you have answered Question No. 4 "Yes", answer Question No. 5.; otherwise fo the Question No. 6.

5. Do you find that the city of Buffalo, Texas had a policy approving such action of judge Ben Bagley, if you have so found?

Answer Yes or No.
Answer: *"No"*

6. Do you find that Judge Ben Bagley denied Plaintiff Carbalan his right to reasonable bail by setting bail in an unreasonable amount?

Answer Yes or No.
Answer: *"NO"*

If you have answered Question No. 6 "Yes", answer Question No. 7; otherwise go to Question No. 8.

7. Do you find that the city of Buffalo, Texas had a policy approving such action of Judge Ben Bagley, if you have so found?

Answer Yes or No.
Answer: _____

8. What sum of money, if paid now in cash, do you find would adequately compensate Plaintiff for the actual damages he has sustained, if any, as a result of the conduct of Bill Vaughn or the policies of the city of Buffalo?

Answer in dollars and cents, or "none".
Use of excessive force *NONE*
Unreasonable bail *NONE*
Failure to accept motor club cards *NONE*

9. What sum of money, if any, do you assess as punitive damages against Defendant Bill Vaughn?

Answer in dollars and cents, or "none".
Answer: *NONE* "

And the Court, after having considered the pleadings, evidence, stipulations, and jury verdict is of the opinion that judgement should be entered that Plaintiff take nothing by his suit;

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that Plaintiff take nothing against any and all Defendants and all costs of suit are here adjudged against the Plaintiff, Irvin M. Carbalan, for which let process of this court issue for the enforcement thereof.

AND IT FURTHER appearing to the Court and the Court finds that Plaintiff has not "prevailed" in this suit, it is ORDERED, ADJUDGED, AND DECREED hereby that neither Plaintiff nor his attorneys are entitled to attorneys' fees, and it is ORDERED that they take nothing against the Defendants or any of them for attorneys' fees.

ENTERED this 3rd day of February, 1984.

/S/ Walter S. Smith, Jr.

U. S. Magistrate

CERTIFICATE OF SERVICE

I hereby certify that three (3) true and correct copies of the foregoing Supplemental Appendix to the Petition for Writ of Certiorari have been served upon Respondents by depositing same Supplemental Appendix in a United States post office, with first class postage prepaid, addressed to Respondents' counsel of record, Mr. W. C. Haley and Mr. Herbert Bristow, Haley & Davis, United Bank Plaza, 510 N. Valley Mills Drive, Waco, Texas 76710.

All parties required to be served have been served.

_____

Charles H. Clark